



APPENDIX

SPECIFICATIONS OF ERROR

The following points of error were assigned in the courts below and are specifically brought forward and made a part of this petition:

FIRST POINT

The error of the Court of Civil Appeals in overruling petitioner's point that the trial court should have instructed a verdict in favor of petitioner. (Germane to grounds Nos. 18, 21, 22, 25, 28 and 36 of Appellant's Motion for Rehearing in Court of Civil Appeals.)

SECOND POINT

The error of the Court of Civil Appeals in overruling petitioner's point that the trial court should have rendered judgment in favor of petitioner notwithstanding the verdict of the jury. (Germane to ground No. 40 of Appellant's Motion for Rehearing in Court of Civil Appeals.)

THIRD POINT

The error of the Court of Civil Appeals in holding that the *res ipsa loquitur* rule of evidence applies to the case even though the action is based upon allegations of specific acts of negligence and the thing causing the injuries was partially under the management of the injured party. (Germane to ground No. 10 of Appellant's Motion for Rehearing in Court of Civil Appeals.)

FOURTH POINT

The error of the Court of Civil Appeals in holding that the circumstances are materially strengthened so as to support the jury's findings of negligence by the failure of petitioner to offer any explanation of the occurrences resulting in Riley's death which would excuse it. (Germane to ground No. 9 of Appellant's Motion for Rehearing in Court of Civil Appeals.)

FIFTH POINT

The error of the Court of Civil Appeals in holding that the circumstances sustained the verdict of the jury that employees of petitioner other than deceased negligently cut the stakes on the south side of the car which held the load of piling to such extent as to cause the carload of piling to give way when the deceased, Riley, cut the wire at the west end of the car. (Germane to grounds Nos. 2, 3, 4, 5, 8, 9 and 11 of Appellant's Motion for Rehearing in Court of Civil Appeals.)

SIXTH POINT

The error of the Court of Civil Appeals in holding that the negligent act of cutting the stakes on the south side of the car was the proximate cause of Riley's death. (Germane to grounds Nos. 7 and 8 of Appellant's Motion for Rehearing in Court of Civil Appeals.)

SEVENTH POINT

The error of the Court of Civil Appeals in holding that the record reveals circumstances raising an issue of fact

as to whether petitioner negligently failed to furnish deceased a reasonably safe place to work under the conditions and on the occasion when he met his death. (Germane to grounds Nos. 13, 25 and 28 of Appellant's Motion for Rehearing in Court of Civil Appeals.)

EIGHTH POINT

The error of the Court of Civil Appeals in holding that the negligent act or omission of petitioner in connection with failing to furnish deceased a reasonably safe place to work was a substantial factor contributing to the death of Riley. (Germane to ground No. 14 of Appellant's Motion for Rehearing in Court of Civil Appeals.)

NINTH POINT

The error of the Court of Civil Appeals in overruling petitioner's point that if there was any negligence proximately causing Riley's death, said Riley was guilty of negligence as a matter of law. (Germane to grounds Nos. 36, 37, 38 and 39 of Appellant's Motion for Rehearing in Court of Civil Appeals.)

TENTH POINT

The error of the Court of Civil Appeals in holding that the verdict for Thirty Thousand and No/100 (\$30,000.00) Dollars was not excessive under the Federal Employers' Liability Act. (Germane to grounds Nos. 15, 16, 17 and 35 of Appellant's Motion for Rehearing in Court of Civil Appeals.)